IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 6787 of 2005

Between:

Sri K. Panakalu, S/o. Late Raja Rao,
R/O. Vemuluru, Kovvur Mandal, West Godavari District.

..... PETITIONER

AND

1 K. Pushavathi, W/o. Late Raja Rao,
R/o. Vemuluru, Kovvur Mandal, West Godavari District.
2 The Sub-Divisional Magistrate, Kovvur, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in not taking any action on the complaint dt. 24-2-2005 given by the Petitioner u/Sec. 145 and 146 of Cr.P.C. as illegal, arbitrary, unconstitutional and in violation of the statutory provisions as envisaged under Sec. 145 and 146 of Cr.P.C. and further direct the 2nd respondent to launch the proceeding under Sec. 145 and 146 of Cr.P.C. and complete the investigation within one week after issuing the notice to the contesting respondent and pass such other and further orders as the HOn'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:SMT.A.CHAYA DEVI

Counsel for the Respondents: GP FOR HOME

The Court made the following :

To

1 The Sub-Divisional Magistrate, Kovvur, West Godavari District.

2 Two CCs to the G.P for Home, High Court of A.P., Hyderabad(O.U.T).

3 2 CD copies

ORAL ORDER:

Petitioner claims to have made an application to the 2nd respondent-Sub-Divisional Magistrate, Kovvur, West Godavari, on 24.2.2005, under Sections 145,146,147,148 Cr.P.C read with Section 151 C.P.C, praying to put the criminal law in motion and also to appoint a Receiver to take possession of the property in question in order to manage and protect the same in accordance with law. It was alleged by the petitioner in the said application that there is likelihood of eruption of law and order problem and breach of peace. Questioning the inaction on the part of the 2nd respondent, petitioner invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking a direction to the 2nd respondent to launch proceedings under Sections 145 and 146 Cr.P.C and complete investigation within one week after issuing notice to the

contesting respondent.

Heard the learned Counsel for the petitioner and the learned Government Pleader for Home, appearing for the 2nd respondent.

Having heard the learned Counsel on either side, I am not inclined to express anything on the merits of the matter. However, it must be observed that as and when an application is made to the Sub Divisional Magistrate concerned under Sections 145 and 146 Cr.P.C, it is incumbent upon such Sub Divisional Magistrate to inquire into the matter and take appropriate steps in accordance with law, in case it is found that there is the likelihood of eruption of law and order problem and breach of peace.

Having regard to the facts and circumstances of the case, this writ petition is disposed of at the admission stage with a direction to the 2nd respondent to act upon the application said to have been made by the petitioner on 24.02.2005 in accordance with law. In case the second respondent ultimately finds in the inquiry that there is real likelihood of eruption of law and order problem and breach of peace in the locality in question, the 2nd respondent shall take appropriate steps in the matter strictly in accordance with law.

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05.04.2005

Note: Issue C.C. in two days.

(B/o)

Jsu